

**REMARKS**

Applicant appreciates the Examiner's review of the above-identified patent application and respectfully requests reconsideration and allowance in view of the above amendments and following remarks.

Claims 2, 3, 11, 12, 15, and 16-20 have been objected to due to some informalities. With this amendment, Applicant has amended claims 15 and 16 to correct the informalities and has cancelled claims 1-4, 6-12, and 17-20 without prejudice. Accordingly, Applicant submits that the objection to the above claims has been overcome.

Claims 1-3 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,664,265 to Gotter. Claims 1-7, 17, 18, and 20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,793,190 to White. Claims 1, 9, 10, 17, 19, and 20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,071,780 to Lyon. Applicant respectfully traverses these rejections.

With this amendment, Applicant has cancelled claims 1-4, 6-12, and 17-20 without prejudice. Accordingly, Applicant submits that these rejections are now moot and should be withdrawn.

Claims 1-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art in FIG 1 of the present application in view of Gotter. Applicant respectfully traverses this rejection.

In the present office action, the Examiner states, in relevant part,

The Gotter disclose (sic) two different flexible sink engagement sections (Figs. 5 and 6) that are an equivalent alternative for securing a sink within an opening in a countertop. ...Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the flexible sink engagement section of the prior art Fig. 1 with the flexible sink engagement section as, for example, taught be Gotter, where in doing so would involve mere substitution of one functional equivalent sink mount for another and the selection of any of these known equivalents to mount a sink within an opening in a countertop would perform equally well on the Gotter device." (Emphasis added.)

Applicant respectfully disagrees with the Examiner's assertion above.

Applicant respectfully submits that the embodiments shown in Figs 5 and 6 of Gotter are not equivalent to each other. The embodiment shown in Fig 5 of Gotter is limited to countertops having a specific thickness. Referring specifically to Fig 5 of Gotter, the foot 62 of the securing element 28 engages the bottom surface of the countertop 40. Because the securing element 28 has

a predefined overall length, the securing element 28 can only be used with a countertop 40 having a specific thickness. If the countertop 40 is too thick, for example, the foot 62 of the securing element 28 will not reach the bottom of the countertop 40. This problem is discussed in detail in the BACKGROUND INFORMATION section of the present application.

In contrast, the embodiment shown in Fig 6 of Gotter is not limited to a countertop having a specific thickness. Accordingly, the embodiment shown in Fig 5 of Gotter is not useful in the same situations as the embodiment shown in Fig 6. Moreover, the embodiment shown in Fig 5 does not serve the same purpose nor is it interchangeable with the embodiment shown in Fig 6. Therefore, the embodiments shown in Figs 5 and 6 are not equivalent.

Additionally, the embodiment shown in FIG 1 of the present application is also limited to a countertop having a specific thickness for the similar reasons as explained above with respect to the embodiment shown in Fig 5 of Gotter. Accordingly, the embodiment shown in Fig 1 is also not an equivalent of the embodiment shown in Fig. 6 of Gotter.

Applicant reminds the Examiner that mere fact that they perform *similar functions* does not make the two different

embodiments equivalent. Both a butter knife and a chainsaw perform *similar* functions (that is they both cut things), but are certainly not equivalent.

Accordingly, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness based on equivalence and respectfully submits that the rejection of independent claim 13 is improper and should be withdrawn.

Applicant further submits that the modification of Gotter proposed by the Examiner would change the principle of operation of Gotter in violation of MPEP § 2143.01. MPEP § 2143.01 states, in relevant part, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."

Gotter specifically states that the securing element 28 includes a web 36 which is press-fit into a slot 26. See *Column 6, lines 37-48*. Accordingly, modifying Gotter to include the engagement section disclosed in FIG 1 of the present invention would alter the principle of operation of Gotter since the web 36 and the slot 26 would be rendered useless.

For at least the reasons discussed above, Applicant

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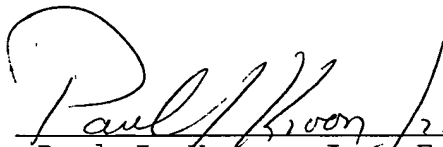
respectfully submits that the rejection of independent claim 13 in view of the combination of Fig 1 of the present invention and Gotter is improper and should be withdrawn. Accordingly, Applicant submits that all pending claims are in condition for allowance and such action is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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